IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

WP(C).No. 25339 of 2006(N)

AGAINST THE ORDER DATED 17/08/06 N E.P.241/2005. IN OS.57/2004 OF SUB COURT, THALASSERY

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PETITIONERS:

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1. E.V.UMADEVI, PARVATHI VIHAR, P.O.MELMURINGODI, PERAVOOR, MANATHANA AMSOM, MURINGODI DESOM, THALASSERY TALUK.

2. E.V.VINOD KUMAR - DO -

BY ADV. SRI.R.PARTHASARATHY
SRI.R.K.MURALEEDHARAN

RESPONDENTS:

THE FEDERAL BANK LTD., H.O.ALWAYE, BY ITS KALAKAM BRANCH REPRESENTED BY BRANCH MANAGER.

BY ADV. SRI.GEORGE VARGHESE (MANACHIRACKEL)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 25339/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE EXECUTION PETITION NO. E.P. 241/05.

EXT.P2. COPY OF THE DRAFT SALE PROCLAMATION BY THE RESPONDENT.

EXT.P3. COPY OF THE COUNTER FILED BY THE PETITIONERS AGAINST THE DRAFT SALE PROCLAMATION.

EXT.P4. COPY OF THE ORDER DT. 17/08/06.

EXT.P5. COPY OF THE ASSIGNMENT DEED NO. 1126/06 DT. 6/3/06.

True copy

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PIUS C. KURIAKOSE, J.

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W.P.(C)No.25339 OF 2006

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DATED THIS THE 9th JULY, 2007

J U D G M E N T

The contention which was raised by the petitioners-judgment-debtors in answer to the notice under Rule 66 of Order XXI C.P.C. received by them regarding the settlement of sale proclamation was that the market value of the properties is Rs.75,000/- and Rs.50,000/- per cent respectively. The learned Sub Judge under the impugned order repelled the contention on the reason that the petitioners have not produced any documents.

2. This Court while admitting this Writ Petition and granting stay imposed a condition that the petitioners shall deposit before the execution court a sum of Rs.50,000/- within two weeks from 26.9.2006. Since it is seen that the only serious ground raised by the petitioners is regarding the valuation of the properties proposed to be sold, I am of the view that this Writ Petition can be disposed of issuing the following directions:-

The execution court will verify whether the petitioners have deposited Rs.50,000/- towards the decree-debt within two weeks from 26.9.2006. If it is seen on such verification that the deposit has been made by the petitioners, then the execution court will hold up further

proceedings for a period of five more months. It is open to the petitioners to identify a purchaser for any portion of the properties who is prepared to pay the entire balance decree-debt for such portion. Once such a person is identified, it is open to the petitioners to produce copy of the agreement which they enter into with such person and apply to the court for a private sale of the property. The bank is also directed to co-operate in the matter. Once the petitioners identify a purchaser and produce the agreement, the court below will pass appropriate orders on the application to be submitted by the petitioners and thereby ensure that the respondent-bank receives the entire balance decree-debt within the time-frame. At any rate, the order of stay presently passed will not continue beyond a period of six months from today.

The Writ Petition is disposed of as above. No costs.

(PIUS C.KURIAKOSE, JUDGE)

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